

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI**

TAMIA BANKS, et al.,

Plaintiffs,

v.

COTTER CORPORATION (N.S.L.), et al.,

Defendants.

Case No. 4:20-cv-01227

COTTER CORPORATION (N.S.L.),

Third-Party Plaintiff,

v.

MALLINCKRODT LLC, et al.,

Third-Party Defendants.

**COMMONWEALTH EDISON COMPANY’S OPPOSITION TO PLAINTIFFS’  
MOTION TO SEVER AND REMAND ALL NON-THIRD-PARTY CLAIMS**

Commonwealth Edison Company (“ComEd”) opposes Plaintiffs’ Motion to Sever and Remand All Non-Third-Party Claims (ECF No. 47) and joins the arguments in Cotter Corporation (N.S.L.)’s Opposition to Plaintiffs’ Motion to Sever and Remand All Non-Third-Party Claims (ECF No. 58) without waiver of its jurisdictional or other defenses. *Norsyn, Inc. v. Desai*, 351 F.3d 825, 828 n.3 (8th Cir. 2003) (removal jurisdiction “does not constitute a waiver of any right to object to lack of personal jurisdiction[.]” (quoting *Nationwide Eng’g & Control Sys., Inc. v. Thomas*, 837 F.2d 345, 347–48 (8th Cir. 1988))).

To be sure, ComEd has timely consented to Mallinckrodt’s removal (ECF No. 1-3) and may join and argue removal jurisdiction by opposing Plaintiffs’ motion. *See Christiansen v. W.*

*Branch Cmty. Sch. Dist.*, 674 F.3d 927, 933 (8th Cir. 2012) (opposing remand constitutes a timely consent and joinder in removal); *Griffioen v. Cedar Rapids & Iowa City Ry. Co.*, 785 F.3d 1182 (8th Cir. 2015) (same); *Couzens v. Donohue*, 854 F.3d 508 (8th Cir. 2017) (same).

Accordingly, ComEd requests that the Court deny Plaintiffs' Motion to Sever and Remand All Non-Third-Party Claims, joins Mallinckrodt's notice of removal, and requests any further relief that the Court deems just and proper.

Dated: October 27, 2020

Respectfully submitted,

/s/ Lauren E. Jaffe

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**CERTIFICATE OF SERVICE**

I certify that on October 27, 2020, these papers were filed through the Eastern District of Missouri Court's CM/ECF system, which will automatically serve an electronic copy upon all counsel of record.

Respectfully submitted,

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